

AMENDMENT UNDER 37 C.F.R. § 1.116
Application Serial No. 09/998,423
Attorney Docket No. Q67470

REMARKS

Upon entry of the present Amendment, claims 1-2 and 5 are all the claims pending in the application. Claims 1-2 and 5 are amended, and claims 3, 4 and 6 are cancelled without prejudice or disclaimer. No new matter is presented.

To summarize the Office Action, claim 3 is objected to for informalities, claims 1-6 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite, and claims 1, 2 and 5 are rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Naslund (U.S. Patent No. 6,223,031). However, the Examiner objects to claims 3, 4, and 6 as being dependent on a rejected base claim, but indicates that these claims would be allowable if rewritten to overcome the rejection under 35 U.S.C. § 112, and to include all of the limitations of their respective base claims.

The outstanding objection and rejections are traversed, as discussed below.

Claim Objection

The Examiner objects to claim 3 for containing unnecessary language and suggests that “fixed unit” be deleted. Applicant submits that this objection is moot in view of the cancellation of claim 3 without prejudice or disclaimer. However, as discussed below, the subject matter of claim 3, without the “fixed unit” recitation, has been incorporated into claim 1. Withdrawal of the objection is therefore requested.

Claim Rejections - 35 U.S.C. § 112

The Examiner contends that independent claims 1, 2 and 5 are indefinite because the recitation “without taking measurements” allegedly contradicts the prior recitation of “recording a predetermined number of parameters which occur during a communication between the remote unit and the fixed unit”.

Applicant notes that claim 1 is amended to delete the recitation “without taking measurements” and to incorporate the subject matter of claim 3, which defines the predetermined parameters as “at least one of errors that are produced during the communication and retransmissions during the communication.” Thus, the amendment of claim 1 is believed to render the 35 U.S.C. § 112, second paragraph, rejection moot, and to place claim 1 in condition for allowance at least by reciting the subject matter of objected to claim 3.

Applicant further notes that independent claims 2 and 5, which respectively define a system for allocating a radio channel in a wireless communication system and a fixed unit of a wireless communication system, are similarly amended to incorporate the feature of “wherein the predetermined parameters comprise at least one of errors that are produced during the communication and retransmissions during the communication” (i.e., incorporated from dependent claims 4 and 6, respectively) and to delete the recitation of “without taking measurements”. Therefore, the 35 U.S.C. § 112, second paragraph, rejection of claims 2 and 5 is believed to be moot and the claims are believed to be in condition for allowance at least for reasons analogous to those discussed with respect to claim 1.

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Claim Rejections - 35 U.S.C. § 102

As noted above, claims 1, 2 and 5 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Naslund. Without commenting substantively on the merits of the rejection, Applicant submits that claims 1, 2, and 5 are allowable at least by virtue of incorporating the subject matter of objected to dependent claims 3, 4 and 6.

Further, the amendments to claims 1, 2 and 5 to incorporate the allowable subject matter of claims 3, 4 and 6, respectively, should not raise any new issues that would necessitate further search or consideration. Therefore, entry of the present amendment and allowance of claims 1, 2 and 5 is respectfully requested.

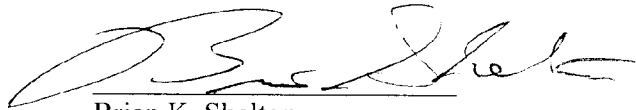
Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Brian K. Shelton", written over a horizontal line.

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